

Panaji, 3rd August, 1989 (Sravana 12, 1911)

SERIES I No. 18

OFFICIAL GAZETTE

GOVERNMENT OF GOA

GOVERNMENT OF GOA

Law (Legal and Legislative Affairs) Department

Notification

10-3-88/LA (Part)

The National Waterway (Sadiya-Dhubri Stretch of the Brahmaputra River) Act, 1988 (Central Act 40 of 1988) which was passed by Parliament and assented to by the President of India on 1-9-1988 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 1-9-1988 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 12th January, 1989.

The National Waterway (Sadiya-Dhubri Stretch of the Brahmaputra River) Act, 1988

AN
ACT

to provide for the declaration of the Sadiya-Dhubri Stretch of the Brahmaputra river to be a national waterway and also to provide for the regulation and development of the said stretch of that river for purposes of shipping and navigation on the said waterway and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the National Waterway (Sadiya-Dhubri Stretch of the Brahmaputra River) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. *Declaration of Sadiya-Dhubri Stretch of Brahmaputra river to be national waterway.*— The Sadiya-Dhubri Stretch of the Brahmaputra river, the limits of which are specified in the Schedule, is hereby declared to be a national waterway.

3. *Declaration as to expediency of control by the Union of Sadiya-Dhubri Stretch of Brahmaputra river for certain*

purposes.— It is hereby declared that it is expedient in the public interest that the Union should take under its control the regulation and development of Sadiya-Dhubri Stretch of the Brahmaputra river for purposes of shipping and navigation on the national waterway to the extent provided in the Inland Waterways Authority of India Act, 1985.

82 of 1985.

THE SCHEDULE

(see section 2)

Limits of the National Waterway (Sadiya-Dhubri Stretch of the Brahmaputra River)

From a line drawn across the Brahmaputra river from the point on the north bank of the Kundil river at its confluence with the Brahmaputra river near Sadiya to the beginning of the river island Majuli and therefrom through all the channels of the Brahmaputra river on either side of the river island Majuli up to the end of the river island Majuli and then up to the international border down stream of Dhubri.

Notification

10-3-88/LA (Part)

The Water (Prevention and Control of Pollution) Amendment Act, 1988 (Central Act 53 of 1988) which was passed by Parliament and assented to by the President of India on 29-9-1988 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 3-10-1988 is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 31st January, 1989.

The Water (Prevention and Control of Pollution) Amendment Act, 1988

AN
ACT

further to amend the Water (Prevention and Control of Pollution) Act, 1974.

Whereas, in pursuance of clause (1) of article 252 of the Constitution, the

Water (Prevention and Control of Pollution) Act, 1974 had been passed by Parliament; 6 of 1974.

And whereas some administrative and practical difficulties in effectively implementing the provisions of the aforesaid Act have come to light, it is considered necessary to make certain amendments thereto;

And whereas, in pursuance of clause (1) of article 252 of the Constitution read with clause (2) thereof, resolutions have been passed by the Legislative Assemblies of the States of Himachal Pradesh and Tripura to the effect that the said Act should be amended by an Act of Parliament for the purposes hereinafter appearing;

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title, application and commencement.*—
(1) This Act may be called the Water (Prevention and Control of Pollution) Amendment Act, 1988.

(2) It applies, in the first instance, to the whole of the States of Himachal Pradesh and Tripura and the Union territories; and it shall apply to such other State which adopts this Act by resolution passed in that behalf under clause (1) of article 252 of the Constitution read with clause (2) thereof.

(3) It shall come into force, at once in the States of Himachal Pradesh and Tripura and the Union territories, and in any other State which adopts this Act under clause (1) of article 252 of the Constitution read with clause (2) thereof on the date of such adoption.

2. *Amendment of section 2.*— In section 2 of the Water (Prevention and Control of Pollution) Act, 1974 (hereinafter referred to as the principal Act),— 6 of 1974.

(a) for clause (b), the following clause shall be substituted, namely:—

“(b) “Central Board” means the Central Pollution Control Board constituted under section 3;”;

(b) for clause (d), the following clause shall be substituted, namely:—

“(d) “occupier”, in relation to any factory or premises, means the person who has control over the affairs of the factory or the premises, and includes, in relation to any substance, the person in possession of the substance;”;

(c) for clause (h), the following clause shall be substituted, namely:—

“(h) “State Board” means a State Pollution Control Board constituted under section 4;”;

(d) in clause (k), for the words “trade or industry”, the words “industry, operation or process, or treatment and disposal system” shall be substituted.

3. *Amendment of section 3.*— In section 3 of the principal Act,—

(a) in sub-section (1), for the words “Central Board for the Prevention and Control of Water

Pollution”, the words “Central Pollution Control Board” shall be substituted;

(b) in sub-section (2), for clause (f), the following clause shall be substituted, namely:—

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”.

4. *Amendment of section 4.*— In section 4 of the principal Act,—

(a) in sub-section (1), for the words “State Board”, the words “State Pollution Control Board” shall be substituted;

(b) in sub-section (2), for clause (f), the following clause shall be substituted, namely:—

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the State Government.”.

5. *Amendment of section 5.*— In section 5 of the principal Act; in sub-section (7), for the words “shall not be eligible for renomination for more than two terms”, the words “shall be eligible for renomination” shall be substituted.

6. *Amendment of section 12.*— In section 12 of the principal Act, after sub-section (3A), the following sub-section shall be inserted, namely:—

“(3B) The Board may, by general or special order, and subject to such conditions and limitations, if any, as may be specified in the order, delegate to any officer of the Board such of its powers and functions under this Act as it may deem necessary.”.

7. *Amendment of section 14.*— In section 14 of the principal Act,—

(a) in sub-section (1), for clause (f), the following clause shall be substituted, namely:—

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”;

(b) in sub-section (2), for clause (f), the following clause shall be substituted, namely:—

“(f) a full-time member-secretary, possessing qualifications, knowledge and experience of scientific, engineering or management aspects of pollution control, to be appointed by the Central Government.”.

8. *Amendment of section 16.*— In section 16 of the principal Act, in sub-section (2), after clause (e), the following clause shall be inserted, namely:—

“(ee) perform such of the functions of any State Board as may be specified in an order made under sub-section (2) of section 18;”.

9. *Amendment of section 18.*— Section 18 of the principal Act shall be renumbered as sub-section

(1) thereof, and after sub-section (1) as so renumbered, the following sub-sections shall be inserted, namely:—

“(2) Where the Central Government is of the opinion that any State Board has defaulted in complying with any directions given by the Central Board under sub-section (1) and as a result of such default a grave emergency has arisen and it is necessary or expedient so to do in the public interest, it may, by order, direct the Central Board to perform any of the functions of the State Board in relation to such area, for such period and for such purposes, as may be specified in the order.

(3) Where the Central Board performs any of the functions of the State Board in pursuance of a direction under sub-section (2), the expenses, if any, incurred by the Central Board with respect to the performance of such functions may, if the State Board is empowered to recover such expenses, be recovered by the Central Board with interest (at such reasonable rate as the Central Government may, by order, fix) from the date when a demand for such expenses is made until it is paid from the person or persons concerned as arrears of land revenue or of public demand.

(4) For the removal of doubts, it is hereby declared that any directions to perform the function of any State Board given under sub-section (2) in respect of any area would not preclude the State Board from performing such functions in any other area in the State or any of its other functions in that area.”

10. *Amendment of section 20.*—In section 20 of the principal Act, in sub-section (3), for the words “industry or trade”, the words “industry, operation or process, or treatment and disposal system” shall be substituted.

11. *Amendment of section 24.*—In section 24 of the principal Act, in sub-section (1), in clause (a), for the words “stream or well”, the words “stream or well or sewer or on land” shall be substituted.

12. *Amendment of section 25.*—In section 25 of the principal Act,—

(a) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) Subject to the provisions of this section, no person shall, without the previous consent of the State Board,—

(a) establish or take any steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land (such discharge being hereafter in this section referred to as discharge of sewage); or

(b) bring into use any new or altered outlet for the discharge of sewage; or

(c) begin to make any new discharge of sewage:

Provided that a person in the process of taking any steps to establish any industry,

operation or process immediately before the commencement of the Water (Prevention and Control of Pollution) Amendment Act, 1988, for which no consent was necessary prior to such commencement, may continue to do so for a period of three months from such commencement or; if he has made an application for such consent, within the said period of three months, till the disposal of such application.

(2) An application for consent of the State Board under sub-section (1) shall be made in such form, contain such particulars and shall be accompanied by such fees as may be prescribed.”;

(b) for sub-sections (4), (5) and (6), the following sub-sections shall be substituted, namely:—

“(4) The State Board may—

(a) grant its consent referred to in sub-section (1), subject to such conditions as it may impose, being—

(i) in cases referred to in clauses (a) and (b) of sub-section (1) of section 25, conditions as to the point of discharge of sewage or as to the use of that outlet or any other outlet for discharge of sewage;

(ii) in the case of a new discharge, conditions as to the nature and composition, temperature, volume or rate of discharge of the effluent from the land or premises from which the discharge or new discharge is to be made; and

(iii) that the consent will be valid only for such period as may be specified in the order,

and any such conditions imposed shall be binding on any person establishing or taking any steps to establish any industry, operation or process, or treatment and disposal system or extension or addition thereto, or using the new or altered outlet, or discharging the effluent from the land or premises aforesaid; or

(b) refuse such consent for reasons to be recorded in writing.

(5) Where, without the consent of the State Board, any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, is established, or any steps for such establishment have been taken or a new or altered outlet is brought into use for the discharge of sewage or a new discharge of sewage is made, the State Board may serve on the person who has established or taken steps to establish any industry, operation or process, or any treatment and disposal system or any extension or addition thereto, or using the outlet, or making the discharge, as the case may be, a notice imposing any such conditions as it might have imposed on an application for its consent in respect of such establishment, such outlet or discharge.

(6) Every State Board shall maintain a register containing particulars of the conditions imposed under this section and so much

of the register as relates to any outlet, or to any effluent, from any land or premises shall be open to inspection at all reasonable hours by any person interested in, or affected by such outlet, land or premises, as the case may be, or by any person authorised by him in this behalf and the conditions so contained in such register shall be conclusive proof that the consent was granted subject to such conditions."

13. *Amendment of section 27.*—In section 27 of the principal Act, —

(a) for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) A State Board shall not grant its consent under sub-section (4) of section 25 for the establishment of any industry, operation or process, or treatment and disposal system or extension or addition thereto, or to the bringing into use of a new or altered outlet unless the industry, operation or process, or treatment and disposal system or extension or addition thereto, or the outlet is so established as to comply with any conditions imposed by the Board to enable it to exercise its right to take samples of the effluent."

(b) in sub-section (2), for clause (a), the following clause shall be substituted, namely: —

"(a) any condition imposed under section 25 or section 26 and may serve on the person to whom a consent under section 25 or section 26 is granted a notice making any reasonable variation of or revoking any such condition."

14. *Amendment of section 30.*—In section 30 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) Where under this Act, any conditions have been imposed on any person while granting consent under section 25 or section 26 and such conditions require such person to execute any work in connection therewith and such work has not been executed within such time as may be specified in this behalf, the State Board may serve on the person concerned a notice requiring him within such time (not being less than thirty days) as may be specified in the notice to execute the work specified therein."

15. *Amendment of section 31.*—In section 31 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) If at any place where any industry, operation or process, or any treatment and disposal system or any extension or addition thereto is being carried on, due to accident or other unforeseen act or event, any poisonous, noxious or polluting matter is being discharged, or is likely to be discharged into a stream or well or sewer or on land and, as a result of such discharge, the water in any stream or well is being polluted, or is likely to be polluted, than the person in charge of such place shall forthwith intimate the occurrence of such accident, act or event to the State Board and such other authorities or agencies as may be prescribed."

16. *Amendment of section 32.*—In section 32 of the principal Act, in sub-section (1), —

(a) in the opening portion, for the words "any stream or well", the words "any stream or well or on land by reason of the discharge of such matter in such stream or well or on such land" shall be substituted;

(b) in clause (a), for the words "stream or well", the words "stream or well or on land" shall be substituted;

(c) in clause (c), for the words "into the stream or well", the words "into the stream or well or on land" shall be substituted.

17. *Amendment of section 33.*—In section 33 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) Where it is apprehended by a Board that the water in any stream or well is likely to be polluted by reason of the disposal or likely disposal of any matter in such stream or well or in any sewer or on any land, or otherwise, the Board may make an application to a court, not inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class, for restraining the person who is likely to cause such pollution from so causing."

18. *Insertion of new section 33A.*—In Chapter V of the principal Act, after section 33, the following section shall be inserted, namely: —

"33A. *Power to give directions.*—Notwithstanding anything contained in any other law, but subject to the provisions of this Act, and to any directions that the Central Government may give in this behalf, a Board may, in the exercise of its powers and performance of its functions under this Act, issue any directions in writing to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions.

Explanation.—For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct —

(a) the closure, prohibition or regulation of any industry, operation or process; or

(b) the stoppage or regulation of supply of electricity, water or any other service."

19. *Insertion of new section 37A.*—After section 37 of the principal Act, the following section shall be inserted, namely: —

"37A. *Borrowing powers of Board.*—A Board may, with the consent of, or in accordance with, the terms of any general or special authority given to it by the Central Government or, as the case may be, the State Government, borrow money from any source by way of loans or issue of bonds, debentures or such other instruments, as it may deem fit, for the performance of all or any of its functions under this Act."

20. *Substitution of new section for section 39.*—For section 39 of the principal Act, the following section shall be substituted, namely: —

"39. *Annual report.*—(1) The Central Board shall, during each financial year, prepare, in such

form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the Central Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before both Houses of Parliament within nine months from the last date of the previous financial year.

(2) Every State Board shall, during each financial year, prepare, in such form as may be prescribed, an annual report giving full account of its activities under this Act during the previous financial year and copies thereof shall be forwarded to the State Government within four months from the last date of the previous financial year and that Government shall cause every such report to be laid before the State Legislature within a period of nine months from the last date of the previous financial year."

21. *Substitution of new section for section 41.* — For section 41 of the principal Act, the following section shall be substituted, namely: —

"41. *Failure to comply with directions under sub-section (2) or sub-section (3) of section 20, or orders issued under clause (c) of sub-section (1) of section 32 or directions issued under sub-section (2) of section 33 or section 33A.* — (1) Whoever fails to comply with any direction given under sub-section (2) or sub-section (3) of section 20 within such time as may be specified in the direction shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(2) Whoever fails to comply with any order issued under clause (c) of sub-section (1) of section 32 or any direction issued by a court under sub-section (2) of section 33 or any direction issued under section 33A shall, in respect of each such failure and on conviction, be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years and with fine, and in case the failure continues, with an additional fine which may extend to five thousand rupees for every day during which such failure continues after the conviction for the first such failure.

(3) If the failure referred to in sub-section (2) continues beyond a period of one year after the date of conviction, the offender shall, on conviction, be punishable with imprisonment for a term which shall not be less than two years but which may extend to seven years and with fine."

22. *Amendment of section 42.* — In section 42 of the principal Act, for the words "one thousand rupees", wherever they occur, the words "ten thousand rupees" shall be substituted.

23. *Amendment of sections 43 and 44.* — In sections 43 and 44 of the principal Act, for the words "six months", the words "one year and six months" shall, respectively, be substituted.

24. *Amendment of section 45.* — In section 45 of the principal Act, for the words "one year", the words "two years" shall be substituted.

25. *Insertion of new section 45A.* — After section 45 of the principal Act, the following section shall be inserted, namely: —

"45A. *Penalty for contravention of certain provisions of the Act.* — Whoever contravenes any of the provisions of this Act or fail to comply with any order or direction given under this Act, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of a continuing contravention or failure, with an additional fine which may extend to five thousand rupees for every day during which such contravention or failure continues after conviction for the first such contravention or failure."

26. *Amendment of section 49.* — In section 49 of the principal Act, —

(a) for sub-section (1), the following sub-section shall be substituted, namely: —

"(1) No court shall take cognizance of any offence under this Act except on a complaint made by —

(a) a Board or any officer authorised in this behalf by it; or

(b) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Board or officer authorised as aforesaid,

and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act."

(b) sub-section (2) shall be renumbered as sub-section (3) and before sub-section (3) as so renumbered, the following sub-section shall be inserted, namely: —

"(2) Where a complaint has been made under clause (b) of sub-section (1), the Board shall, on demand by such person, make available the relevant reports in its possession to that person:

Provided that the Board may refuse to make any such report available to such person if the same is, in its opinion, against the public interest."

27. *Amendment of section 63.* — In section 63 of the principal Act, in sub-section (2), —

(a) for clause (1), the following clauses shall be substituted, namely: —

"(1) the form in which and the time within which the budget of the Central Board may be

prepared and forwarded to the Central Government under section 38;

(II) the form in which the annual report of the Central Board may be prepared under section 39;";

(b) after clause (m), the following clause shall be inserted, namely:—

"(mm) the manner in which notice of intention to make a complaint shall be given to the Central Board or officer authorised by it under section 49;".

28. *Amendment of section 64.*—In section 64 of the principal Act, in sub-section (2),—

(a) for clause (n), the following clauses shall be substituted, namely:—

"(n)" the form in which and the time within which the budget of the State Board may be prepared and forwarded to the State Government under section 38;

(nn) the form in which the annual report of the State Board may be prepared under section 39;";

(b) after clause (o), the following clause shall be inserted, namely:—

"(oo) the manner in which notice of intention to make a complaint shall be given to the State Board or officer authorised by it under section 49;".

Notification

10-3-88/LA (Part)

The Constitution (Sixty-First Amendment) Act, 1988 which has been passed by Parliament and assented to by the President of India on 28-3-1989 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 28-3-1989, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 21st July, 1989.

The Constitution (Sixty-First Amendment) Act, 1988

AN

ACT

further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Constitution (Sixty-first Amendment) Act, 1988.

2. *Amendment of article 326.*—In article 326 of the Constitution, for the words "twenty-one years", the words "eighteen years" shall be substituted.

The above Bill has been passed by the Houses of Parliament in accordance with the provisions of ar-

ticle 368 of the Constitution and has also been ratified by the Legislatures of not less than one-half of the States by resolutions to that effect as required under the proviso to clause (2) of the said article.

Notification

10-3-88/LA (Part)

The Appropriation (Railways) No. 3 Act, 1989 (Central Act 14 of 1989) which has been passed by Parliament and assented to by the President of India on 16-5-1989 and published in the Gazette of India, Extraordinary, Part II, Section 1, dated 17-5-1989, is hereby published for the general information of the public.

P. V. Kadnekar, Under Secretary (Drafting).

Panaji, 21st July, 1989.

The Appropriation (Railways) No. 3 Act, 1989

AN

ACT

to provide for the authorisation of appropriation of moneys out of the Consolidated Fund of India to meet the amounts spent on certain services for the purposes of Railways during the financial year ended on the 31st day of March, 1987 in excess of the amounts granted for those services and for that year.

Be it enacted by Parliament in the Fortieth Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Appropriation (Railways) No. 3 Act, 1989.

2. *Issue of Rs. 149,15,53,856 out of the Consolidated Fund of India to meet certain expenditure for the financial year ended on the 31st day of March, 1987.*—From and out of the Consolidated Fund of India, the sums specified in column 3 of the Schedule amounting in the aggregate to the sum of one hundred and forty-nine crores, fifteen lakhs, fifty-three thousand, eight hundred and fifty-six rupees shall be deemed to have been authorised to be paid and applied to meet the amounts spent for defraying the charges in respect of the services relating to Railways specified in column 2 of the Schedule during the financial year ended on the 31st day of March, 1987, in excess of the amounts granted for those services and for that year.

3. *Appropriation.*—The sums deemed to have been authorised to be paid and applied from and out of the Consolidated Fund of India under this Act shall be deemed to have been appropriated for the services and purposes expressed in the Schedule in relation to the financial year ended on the 31st day of March, 1987.

THE SCHEDULE
(See sections 2 and 3)

No. of Vote	Services and purposes	Sums not exceeding		
		Voted by Parliament	Charged on the Consolidated Fund	Total
1	2	3		
		Rs.	Rs.	Rs.
5	Repairs and Maintenance of Motive Power	6,07,57,302	..	6,07,57,302
8	Operating Expenses-Rolling Stock and Equipment	16,817	16,817
13	Provident Fund, Pension and other Retirement Benefits	53,67,41,390	..	53,67,41,390
14	Appropriation to Funds	31,91,17,640	..	31,91,17,640
16	Assets — Acquisition, Construction and Replacement — Other Expenditure			
	Capital	57,49,20,707	..	57,49,20,707
	Total	149,15,37,039	16,817	149,15,53,856